

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

MICHAEL GAY

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:21-CV-272-LG-RPM

AEGIS SECURITY INSURANCE
COMPANY

DEFENDANT

REPORT AND RECOMMENDATION

Before the Court is a joint motion to stay proceedings and for appointment of an umpire. Doc. [12]. Plaintiff Michael Gay filed a complaint on August 19, 2021, alleging Defendant mishandled an insurance claim for fire damage to Plaintiff's residence. Doc. [1]. At the telephonic status conference held on March 8, 2023, the parties discussed their wish to resolve the matter through the appraisal process. Pursuant to the appraisal clause in the relevant insurance policy, both parties request the Court appoint a duly qualified umpire to render a decision in the appraisal. Doc. [13]. Accordingly, the parties also seek to stay the proceedings until the appraisal has been completed. Doc. [12].

Given the joint motion, the parties agree that court appointment of an umpire will ensure the appraisal will proceed expeditiously. After careful consideration, the undersigned finds that David W. Mockbee is qualified to serve as an appraisal umpire in this dispute. Mr. Mockbee is President of Mockbee Hall & Drake, P.A. in Jackson, Mississippi. Given Mr. Mockbee's extensive experience in Construction Law and past appointments by the Court, the undersigned is confident that he has the knowledge and expertise required to serve as an umpire in this dispute.

RECOMMENDATION

The undersigned recommends that motion [12] be granted, David W. Mockbee be appointed umpire to serve in rendering a decision in the appraisal, and the litigation be stayed pending completion of the appraisal process.

NOTICE OF RIGHT TO APPEAL/OBJECT

Pursuant to 28 U.S.C. § 636(b)(1), any party who desires to object to this report must serve and file written objections within fourteen (14) days after being served with a copy unless the time period is modified by the District Court. A party filing objections must specifically identify those findings, conclusions and recommendations to which objections are being made; the District Court need not consider frivolous, conclusive, or general objections. Such party shall file the objections with the Clerk of the Court and serve the objections on the District Judge and on all other parties. A party's failure to file such objections to the proposed findings, conclusions and recommendation contained in this report shall bar that party from a de novo determination by the District Court. Additionally, a party's failure to file written objections to the proposed findings, conclusions, and recommendation contained in this report within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the proposed factual findings and legal conclusions that have been accepted by the district court and for which there is no written objection. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

SO ORDERED AND ADJUDGED, this the 20th day of March 2023.

/s/ *Robert P. Myers, Jr.*

ROBERT P. MYERS, JR.

UNITED STATES MAGISTRATE JUDGE